
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

ANTHONY LEON SUMMERS,

Plaintiff,

versus

STEVEN N. RICH, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:10-CV-348

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Anthony Leon Summers, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff requested leave to proceed *in forma pauperis*.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends denying plaintiff's motion to proceed *in forma pauperis*, and dismissing the case without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). Plaintiff alleges that he is in imminent danger of

serious physical injury because he is not receiving adequate medical treatment. Plaintiff has filed many civil actions in this district raising the same allegations about his health care. An evidentiary hearing concerning plaintiff's allegations of inadequate health care was conducted in Civil Action No. 1:08-CV-220. That case was dismissed pursuant to Section 1915(g) after the court concluded plaintiff had not demonstrated he was in imminent danger of serious physical injury. After careful consideration, the court concludes the objections are without merit. In addition, the case should be dismissed because it is repetitious of a pending case filed by the plaintiff. *Summers v. Quarterman*, No. 1:10-CV-33 (E.D. Tex.).

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 28th day of March, 2011.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE